

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PETRACO OIL CO. LTD.,

Plaintiff,

Index No. 08cv03115 (PAC)

-against-

PROGETRA SA,

AFFIRMATION IN SUPPORT OF
MOTION TO VACATE
ATTACHMENT AND
DISMISS VERIFIED COMPLAINT

Defendant.

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I, David I. Faust, affirm under the penalty of perjury that:

1. I, David I. Faust, am a partner of Faust Oppenheim LLP, attorneys for the defendant in the above entitled action. As such, I am familiar with the facts and circumstances herein. I submit this Affirmation in Support of defendant Progetra SA's motion requesting this Court to issue an Order (i) pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and Rule E(4)(f) of the Supplemental Admiralty Rules to vacate the Rule B attachment (ii) dismiss the verified complaint of Petraco Oil Co., Ltd. and (iii) an award of costs and attorneys fees to the Progetra SA.

2. Defendant Progetra SA is entitled to the relief sought because, as spelled out in further detail in the accompanying Memorandum of Law:

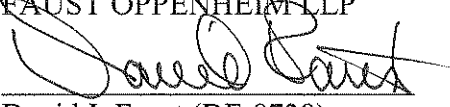
- a. Plaintiff failed to use the proper channels in serving process on defendant;
- b. this Court lacks jurisdiction to hear this dispute because there has been no prima facie showing that this is a maritime or admiralty action under 28 U.S.C. §1333;
- c. this Court lacks jurisdiction to hear this dispute because there is no Federal Question under 28 U.S.C. §1331;
- d. this Court lacks jurisdiction to hear this dispute because the contract in dispute contains an unambiguous choice of law, venue and jurisdiction clause designating English law and arbitration in London, England; and

- e. Defendant is entitled to recovery for interest on the wrongfully attached funds, its costs, including attorney's fees for defending this improper attachment and meritless action.

WHEREFORE, I respectfully request that the Court grant defendant's motion, as well as such other and further relief as may be just and proper.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 26, 2008

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